## TOWN OF ELSMERE BOARD OF ADJUSTMENTS MEETING MINUTES March 20, 2012 6:30 P.M.

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**CALL TO ORDER:** 

**ROLL CALL:** 

Board Member Patricia Boyd – Present Board Member James Personti – Present Board Member John Smith – Present Board Member John Acton – Present Chairman Paul Chalfant – Present

## **APPROVAL OF MINUTES:**

Minutes from the February 28, 2012 Board of Adjustment Meeting

**ACTION:** A motion was made by Board Member Boyd to approve the Minutes as transcribed. The motion was seconded by Board Member Personti.

**VOTE:** All in favor Motion Carried

**OLD BUSINESS:** 

None

## **NEW BUSINESS:**

Review Petition 12-4 Tax Parcel # 1900-500-038 also known as 615 Kirkwood Hwy.

Rakesh Mehta introduced himself as a co-owner of USA Gas DE. He stated he put the red color on the canopy in order to match the logo of the business which is red, white, and blue. He also stated he wanted it to be colored similar to the American flag. He went on to say that when the ordinance of the color palette was adapted in 2008, he was a tenant at the location and not the landlord, and therefore received no notice. Mr. Mehta went on to say that he would suffer financial hardship if he needed to change the color back to meet Code requirements. He also stated he feels that the logo and canopy would not match if it needed to be changed.

Board of Adjustment Minutes March 20, 2012 Page **1** of **3**  Board Member Boyd asked if red, white, and blue are the official colors of USA Gas DE.

Mr. Mehta stated it was not, and that USA Gas DE is his brand.

Board Member Smith asked if Mr. Mehta was planning to put a red stripe around the top of the building.

Code officer, Brian Swift, said that nothing was to done to the building and that Mr. Mehta already put the stripe on the canopy. He also stated Mr. Mehta claims to have no prior knowledge of the color palette ordinance. He went on to say that, at the Planning Commission meeting, Mr. Mehta said that red, white, and blue are not corporate colors.

Councilman Steve Burg stated that he has nothing against the gas station, but rules are rules, and they must be abided by. He also said that there was another business in town that recently were made to change the color of their building because they had used the wrong shade of yellow. He asked what kind of message they would be sending by allowing another business to do the same thing they disallowed them to do.

Chairman Chalfant stated that he agrees with Councilman Burg, saying that they need to set a precedence by not granting the variance.

Board Member Boyd stated that she has a problem with granting the variance due to the fact that they aren't corporate colors.

Mr. Swift stated that it's not the color that's the issue, but the fact that it's not uniform. He then said that the blue and white colors were put there before the ordinance of the color palette came to pass and was therefore "grand-fathered" in. He went on to say that now, if the variance was not granted, it would have to be one solid color.

**ACTION:** A motion was made by Board Member Boyd to Deny Petition 12-4. The motion was seconded by Board Member Smith.

**VOTE:** All in favor Motion Carried

Review Petition 12-6 Tax Parcel # 1900-800-331 also known as 1008 Dover Ave.

Mr. Richard Emery, who is the owner of the rental property at 2133 Seneca Rd., failed to appear before the Board to present his reason for filing the appeals of the Citation. Ms. Margaret Gode, Mr. Emery's sister-in-law and POA, failed to appear before the Board as well.

Citation # V2-00016, which was issued on February 21, 2012, alleged a violation of section 303.1 of the 2000 International Property Maintenance Code (The exterior of a structure shall be maintained in good repair, structurally sound so as not to pose a threat to the public health, safety, or welfare.)

After the introduction of evidence, Chairman Chalfant stated there was no motion needed seeing as they did not show up to the meeting to present their case, and therefore, the petition was Denied.

the petition was Denied.	
ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None	
PUBLIC COMMENT: None	

**ADJOURNMENT:** 

**ACTION:** A motion was made by Board Member Smith to adjourn. The motion was seconded by Board Member Personti.

**VOTE:** All in favor Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the March 20, 2012 Board of Adjustment Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

PAUL CHALFANT, CHAIRMAN	JAMES PERSONTI, SECRETARY